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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EURO PACIFIC CAPITAL INC, INDIVIDUALLY,
AND IN ITS CAPACITY AS INVESTOR
REPRESENTATIVE AND ATTORNEY-IN-FACT
FOR BARBARA SUE WILSON AND DAVID D.
WILSON AS TRUSTEES FOR THE BARBARA SUE
WILSON TRUST U/A 8/23/94; DOUGLAS W.
JOHNSON AS TRUSTEE FOR THE DOUGLAS
WILLIAM JOHNSON REVOCABLE TRUST U/A
6/25/10; HEIDI W. KEINE AND KEVIN KEINE;
JANET D. RUSSELL AS TRUSTEE FOR THE
JANET DICKINSON RUSSELL LIVING TRUST IS A
TRUST U/A 1/20/10; NFS/FMTC ROLLOVER IRA
FBO JERRY R. SPEAKS; NFS/FMTC ROLLOVER
IRA FBO ROBERT M. WEISSBERG; POINT AUX
CHENES LLC; BRUCE WALKER RAVENEL; POM
INVESTMENTS; JEFF ARCHIBALD; NORMAN E.
APPERSON AND PAMELA MCEACHERN AS
TRUSTEES FOR THE NORMAN E. APPERSON
AND PAMELA MCEACHERN TRUST, U/A 7/22/96;
THE DREW & RASKIN PROFIT SHARING PLAN
FBO STEPHEN RASKIN; CARLOS A. MERINO AS
TRUSTEE FOR THE CARLOS ALFONSO MERINO
REVOCABLE LIVING TRUST U/A 12/4/96;
BARBARA J. PETERSON AS TRUSTEE FOR THE
BARBARA J. PETERSON REVOCABLE TRUST
U/A 2/4/00; CAROLYN R. LONG; COREY
SHANNON MCNAMEE; EVA MARIE SALAS AS
TRUSTEE FOR EVA M. SALAS TRUST; JIMMIE C.
WEST AND CAROLYN E. WEST; JOSEPH
MCCARTHEY AND MIKI MCCARTHY; MARK
DUGGER AS ADMINISTRATOR FOR THE
ALLSTATES DRYWALL INC. EE S T; MICHAEL J.
HANRATTY AND LYN S A Y F. HANRATTY;

15 Civ. 00359 (VSB) (KNF)

**PLAINTIFFS' [PROPOSED]
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

MITCHELL MARTIN AND DEBORAH MARTIN;
 NFS/FMTC ROTH IRA FBO VIRGINIA C. ADAMS;
 NFS/FMTC SEP FBO CARTER LAREN; NFS/FMTC
 SEP FBO GERALD MONA; OLEKSANDR TUMKO
 AND OKSANA TUMKO; THOMAS L. INGRAM AND
 CARISSA INGRAM AS TRUSTEES FOR THE
 INGRAM LIVING TRUST U/A 11/2/05; TIMOTHY
 CRANE AS TRUSTEE FOR THE TIMOTHY R.
 CRANE TRUST; WILLIAM BRADLEY AS
 ADMINISTRATOR FOR THE BRADLEY
 ANESTHESIOLOGY PROFIT SHARING PLAN; ART
 KLEPPEN AND KIMBERLY KLEPPEN; BRENT
 PAULGER AND SHARISSA PAULGER; KEVIN
 MOORE; NFS/FMTC IRA FBO ROBERT STEPHEN
 ADAMS; NFS/FMTC SEP IRA FBO GERALD E.
 MANWILL; STEVE HOKE AND COLLEN HOKE AS
 TRUSTEES FOR THE HOKE LIVING TRUST U/A
 4/19/02; ARNOLD WILLIAM GOLDSCHLAGER AND
 NORA GOLDSCHLAGER AS TRUSTEES FOR THE
 GOLDSCHLAGER FAMILY TRUST U/A 6/24/04;
 UZZI REISS AND Yael REISS AS TRUSTEES
 FOR THE REISS FAMILY TRUST U/A 12/29/88;
 JOHN A. RUPP AS TRUSTEE THE JOHN A. RUPP
 TRUST U/A 3/9/07; LAURA SMITH AND FORREST
 SMITH AS TRUSTEES FOR THE CONNELLY
 JOHNSON SMITH FAMILY TRUST U/A 4/2/09;
 MARC A. PIERRE AS ADMINISTRATOR FOR THE
 CENTER FOR PHYSICAL HEALTH 401K PROFIT
 SHARING PLAN; NFS/FMTC ROLLOVER IRA FBO
 LYNN ROLLINS STULL; NFS/FMTC ROLLOVER
 IRA FBO RONALD ALLEN MCCANN; NFS/FMTC
 ROTH IRA FBO HELEN ERSKINE; PRASAD
 REALTY CORP.; WILLIAM A. KARGES JR. AS
 TRUSTEE FOR THE KARGES REVOCABLE
 INTERVIVOS TRUST U/A 4/29/85; DAVID W.
 LARSON AND JENNIFER L. LARSON; JOHN D.
 SMEAD; MARK EDWARD SMEAD AS TRUSTEE
 FOR THE MARK E. SMEAD REVOCABLE LIVING
 TRUST U/A 11/17/95; NFS/FMTC ROLLOVER IRA
 FBO BERTRAND BROOKS CARDER; NFS/FMTC
 ROLLOVER IRA FBO EDWIN BRUNO KAEHLER;
 RICHARD GRIFF AND JACKIE GRIFF; BARBARA
 SEIDEL AS TRUSTEE FOR THE BARBARA
 GALLUN SEIDEL RESIDUAL TRUST U/A 2/9/60;
 BERT HUNTSINGER; CHRISTIANNA SEIDEL AS
 TRUSTEE FOR THE CHRISTIANNA SEIDEL

PROPERTY TRUST U/A 11/5/99 FBO
 CHRISTIANNA SEIDEL; DAVID BRISBIN AS
 TRUSTEE FOR THE INNES BRISBIN LIVING
 TRUST U/A 6/8/04; GEORGE FELDMAN; GILBERT
 DOMINGUEZ AS TRUSTEE FOR THE
 DOMINGUEZ TRUST U/A 3/3/05; HEMENT
 KATHURI AS ADMINISTRATOR FOR THE H.
 KATHURIA INVESTMENTS II P PLAN; JIM
 ROBERT PUGH; KENNTIH H. NASS AND
 MAUREEN NASS AS TRUSTEES FOR THE
 KENNETH H. & MAUREEN K. NASS CHARI
 TRUST U/A 6/7/05; KK SWOGGER ASSET
 MANAGEMENT; MAUREEN K. NASS AND
 KENNETH H. NASS AS TRUSTEES FOR THE
 MAUREEN K. NASS LIVING TRUST U/A 5/16/05;
 NFS/FMTC IRA FBO DIANE D. SPOLUM;
 NFS/FMTC ROLLOVER IRA FBO OF ANDRES
 KEICHIAN; NFS/FMTC ROLLOVER IRA FBO
 RALPH DALE EDSON; ROBERT T. FOSS AND
 MARGARET FOSS AS TRUSTEES FOR THE
 ROBERT T & MARGARET FOSS REVOCABLE
 TRUST U/A 3/31/04; SHELBY JORDAN AND
 BECKY JORDAN; TRISHA L. FRERES AND
 THEODORE KYLE FRERES AS TRUSTEES FOR
 THE TRISHA L. FRERES LIVING TRUST U/A
 3/31/04; WALTER FRIESEN; WILLIAM J. CYR;
 WILLIAM TEN BRINK AS TRUSTEE FOR THE TEN
 BRINK TRUST U/A 10/2/86; WILLIAM WILEY AND
 MARIANNE WILEY AS TRUSTEES FOR THE
 WILEY FAMILY LIVING TRUST U/A 7/19/95;
 BUCKTHORN LLC; MARC BIENSTOCK AND
 JENNY I. BIENSTOCK; MARK STERIN; NANCY L.
 BENSON AS TRUSTEE FOR THE NANCY L.
 BENSON LIVING TRUST U/A 11/11/02; NFS/FMTC
 ROLLOVER IRA FBO JAMES A. TAMBORELLO;
 NFS/FMTC ROLLOVER IRA FBO RICHARD DAVIS
 MOORE; SKEE GOEDHART AS TRUSTEE FOR
 THE PARACELSUS REVOCABLE TRUST U/A
 7/25/97; SUSAN C. CULLEN; GAYLE M. SANDERS
 AND DEBORAH SANDERS AS TRUSTEES FOR
 THE GAYLE M. SANDERS FAMILY TRUST
 REVOCABLE TRUST U/A 8/15/02; MARC W. LEVIN
 AND SUSAN G. LEVIN; NFS/FMTC ROLLOVER
 IRA FBO DONALD T. GLASER JR.; DAVID ALAN
 SCULLY; JERRY F. MCWILLIAMS; MICHAEL
 SCULLY; NFS/FMTC ROLLOVER IRA FBO TODD

HOWARD OVERGARD; DAVID ARITA; DEBORAH FOREMAN AS TRUSTEE FOR THE DEBORAH D. FOREMAN TRUST U/A 9/29/94; HCR INVESTMENTS INC.; LYNN HAVLIK; BARBARA S. MEISTER AS TRUSTEE FOR THE MEISTER NON-EXEMPT MARITAL TRUST U/A 11/17/83; BRIAN S. BEHAN; CYNTHIA KESSLER AND JAMES KESSLER; NFS/FMTC IRA FBO HOWARD W. WAHL; NORMAN S. KRAMER AND LINDA L. KRAMER; QUINCY MURPHY INC.; ROBERT L. BISHOP; SCOTT DAVIES AND MISTY DAVIES AS TRUSTEES FOR THE SCOTT & MISTY DAVIES LIVING TRUST U/A 6/28/07; BARBARA HEARST; CINDY J. LEWIS AS TRUSTEE FOR THE CINDY J. LEWIS DECLARATION OF TRUST U/A 3/11/93; JACK ABRAMS AND MARGO ABRAMS AS TRUSTEES FOR THE JACK ABRAMS PENSION PLAN 1; JIM GRIFFIN AS CUSTODIAN FOR THE MICHELLE E. GRIFFIN UTMA OH; JIM GRIFFIN AS CUSTODIAN FOR THE DANIEL J. GRIFFIN UTMA OH; JULIA L. GRIFFIN; NFS/FMTC IRA FBO LEONARD SIEGEL; NFS/FMTC IRA FBO ROYCE V. JACKSON; PETER D. SCHIFF; R. STEVEN SMITH; RICHARD POTAPCHUK; SCOTT R. GRIFFIN; AMY J. STEFANIK AS TRUSTEE FOR THE AMY J. STEFANIK REVOCABLE TRUST U/A 2/6/01; ANDREW P. COOK AND SUSAN R. COOK; CHARLOTTE J. BELASCO; JEAN A. DAVIDS-OSTERHAUS AS TRUSTEE FOR THE JEAN A. DAVIDS-OSTERHAUS REVOKABLE TRUST U/A 10/3/07; LARRY GUAGLIARDO; MARK A. OSTERHAUS AS TRUSTEE FOR THE MARK OSTERHAUS REVOCABLE TRUST U/A 10/31/07; RICHARD P. ANOTHONY III AND KIMBERLY J. ANTHONY; STEVEN JAY EPSTEIN.,

Plaintiff,

vs.

YAYI INTERNATIONAL INC.,

Defendant.

COMES NOW the Plaintiff Euro Pacific Capital Inc., individually, and in its capacity as Investor Representative and attorney-in-fact for Barbara Sue Wilson and David D. Wilson as trustees for the Barbara Sue Wilson Trust U/A 8/23/94; Douglas W. Johnson as trustee for the Douglas William Johnson Revocable Trust U/A 6/25/10; Heidi W. Keine and Kevin Keine; Janet D. Russell as trustee for the Janet Dickinson Russell Living Trust is a Trust U/A 1/20/10; NFS/FMTC Rollover IRA FBO Jerry R. Speaks; NFS/FMTC Rollover IRA FBO Robert M. Weissberg; Point Aux Chenes LLC; Bruce Walker Ravenel; POM Investments; Jeff Archibald; Norman E. Apperson and Pamela Mceachern as trustees for the Norman E. Apperson and Pamela Mceachern Trust, U/A 7/22/96; The Drew & Raskin Profit Sharing Plan FBO Stephen Raskin; Carlos A. Merino as trustee for the Carlos Alfonso Merino Revocable Living Trust U/A 12/4/96; Barbara J. Peterson as trustee for the Barbara J. Peterson Revocable Trust U/A 2/4/00; Carolyn R. Long; Corey Shannon McNamee; Eva Marie Salas as trustee for Eva M. Salas Trust; Jimmie C. West and Carolyn E. West; Joseph McCarthey and Miki McCarthy; Mark Dugger as administrator for The Allstates Drywall Inc. EE S T; Michael J. Hanratty and Lynsay F. Hanratty; Mitchell Martin and Deborah Martin; NFS/FMTC Roth IRA FBO Virginia C. Adams; NFS/FMTC SEP FBO Carter Laren; NFS/FMTC SEP FBO Gerald Mona; Oleksandr Tumko and Oksana Tumko; Thomas L. Ingram and Carissa Ingram as trustees for the Ingram Living Trust U/A 11/2/05; Timothy Crane as trustee for the Timothy R. Crane Trust; William Bradley as administrator for the Bradley Anesthesiology Profit Sharing Plan; Art Kleppen and Kimberly Kleppen; Brent Paulger and Sharissa Paulger; Kevin Moore; NFS/FMTC IRA FBO Robert Stephen Adams; NFS/FMTC SEP IRA FBO Gerald E. Manwill; Steve Hoke and Collen Hoke as trustees

for the Hoke Living Trust U/A 4/19/02; Arnold William Goldschlager and Nora Goldschlager as trustees for the Goldschlager Family Trust U/A 6/24/04; Uzzi Reiss and Yael Reiss as trustees for the Reiss Family Trust U/A 12/29/88; John A. Rupp as trustee the John A. Rupp Trust U/A 3/9/07; Laura Smith and Forrest Smith as trustees for the Connelly Johnson Smith Family Trust U/A 4/2/09; Marc A. Pierre as administrator for the Center For Physical Health 401K Profit Sharing Plan; NFS/FMTC Rollover IRA FBO Lynn Rollins Stull; NFS/FMTC Rollover IRA FBO Ronald Allen McCann; NFS/FMTC Roth IRA FBO Helen Erskine; Prasad Realty Corp.; William A. Karges Jr. as trustee for the Karges Revocable Intervivos Trust U/A 4/29/85; David W. Larson and Jennifer L. Larson; John D. Smead; Mark Edward Smead as trustee for the Mark E. Smead Revocable Living Trust U/A 11/17/95; NFS/FMTC Rollover IRA FBO Bertrand Brooks Carder; NFS/FMTC Rollover IRA FBO Edwin Bruno Kaehler; Richard Griff and Jackie Griff; Barbara Seidel as trustee for the Barbara Gallun Seidel Residual Trust U/A 2/9/60; Bert Huntsinger; Christianna Seidel as trustee for the Christianna Seidel Property Trust U/A 11/5/99 FBO Christianna Seidel; David Brisbin as trustee for the Innes Brisbin Living Trust U/A 6/8/04; George Feldman; Gilbert Dominguez as trustee for the Dominguez Trust U/A 3/3/05; Hement Kathuri as administrator for the H. Kathuria Investments II P Plan; Jim Robert Pugh; Kenntih H. Nass and Maureen Nass as trustees for the Kenneth H. & Maureen K. Nass Chari Trust U/A 6/7/05; KK Swogger Asset Management; Maureen K. Nass and Kenneth H. Nass as trustees for the Maureen K. Nass Living Trust U/A 5/16/05; NFS/FMTC IRA FBO Diane D. Spolum; NFS/FMTC Rollover IRA FBO of Andres Keichian; NFS/FMTC Rollover IRA FBO Ralph Dale Edson; Robert T. Foss and Margaret Foss as trustees for the Robert T & Margaret

Foss Revocable Trust U/A 3/31/04; Shelby Jordan and Becky Jordan; Trisha L. Freres and Theodore Kyle Freres as trustees for the Trisha L. Freres Living Trust U/A 3/31/04; Walter Friesen; William J. Cyr; William Ten Brink as trustee for the Ten Brink Trust U/A 10/2/86; William Wiley and Marianne Wiley as trustees for the Wiley Family Living Trust U/A 7/19/95; Buckthorn LLC; Marc Bienstock and Jenny I. Bienstock; Mark Sterin; Nancy L. Benson as trustee for the Nancy L. Benson Living Trust U/A 11/11/02; NFS/FMTC Rollover IRA FBO James A. Tamborello; NFS/FMTC Rollover IRA FBO Richard Davis Moore; Skee Goedhart as trustee for the Paracelsus Revocable Trust U/A 7/25/97; Susan C. Cullen; Gayle M. Sanders and Deborah Sanders as trustees for the Gayle M. Sanders Family Trust Revocable Trust U/A 8/15/02; Marc W. Levin and Susan G. Levin; NFS/FMTC Rollover IRA FBO Donald T. Glaser Jr.; David Alan Scully; Jerry F. McWilliams; Michael Scully; NFS/FMTC Rollover IRA FBO Todd Howard Overgard; David Arita; Deborah Foreman as trustee for the Deborah D. Foreman Trust U/A 9/29/94; HCR Investments Inc.; Lynn Havlik; Barbara S. Meister as trustee for the Meister Non-Exempt Marital Trust U/A 11/17/83; Brian S. Behan; Cynthia Kessler and James Kessler; NFS/FMTC IRA FBO Howard W. Wahl; Norman S. Kramer and Linda L. Kramer; Quincy Murphy Inc.; Robert L. Bishop; Scott Davies and Misty Davies as trustees for the Scott & Misty Davies Living Trust U/A 6/28/07; Barbara Hearst; Cindy J. Lewis as trustee for the Cindy J. Lewis Declaration of Trust U/A 3/11/93; Jack Abrams and Margo Abrams as trustees for the Jack Abrams Pension Plan 1; Jim Griffin as custodian for the Michelle E. Griffin UTMA Oh; Jim Griffin as custodian for the Daniel J. Griffin UTMA Oh; Julia L. Griffin; NFS/FMTC IRA FBO Leonard Siegel; NFS/FMTC IRA FBO Royce V. Jackson; Peter D. Schiff; R. Steven Smith; Richard Potapchuk; Scott R.

Griffin; Amy J. Stefanik as trustee for the Amy J. Stefanik Revocable Trust U/A 2/6/01; Andrew P. Cook and Susan R. Cook; Charlotte J. Belasco; Jean A. Davids-Osterhaus as trustee for the Jean A. Davids-Osterhaus Revocable Trust U/A 10/3/07; Larry Guagliardo; Mark A. Osterhaus as trustee for the Mark Osterhaus Revocable Trust U/A 10/31/07; Richard P. Anthony III and Kimberly J. Anthony; Steven Jay Epstein (referred to as collectively as the “Investors”), by and through its attorneys, Anderson Kill P.C., and Rachael Kierych, and proposes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACTS

1. Defendant Yayi International Inc. (“Yayi”) is incorporated under the laws of the state of Delaware with its principal business operations in the People’s Republic of China. See Affidavit of Peter Chema dated July 8, 2016 (“Chema Aff.” ¶ 3.)

2. Plaintiff Euro Pacific Capital Inc. is an investment company incorporated under the laws of the state of California, with its principal place of business in Westport, Connecticut. Euro Pacific is the Investor Representative and attorney in fact for the Investors, and is authorized to act on their behalf. *Id.* ¶ 4.

3. On or about September 27, 2010, the Investors agreed to loan money to Yayi. *Id.* ¶ 5.

4. This agreement was memorialized in individual promissory notes for each investor (the “Notes”). *Id.*

5. Pursuant to the Notes, Yayi promised to pay Investors a total of \$8,920,000 (the “Principal”) with interest thereon at nine percent (9%) per annum. *Id.* ¶ 6.

6. On or about September 27, 2010, Yayi and Euro Pacific acting as a “Placement Agent” on behalf of the Investors, entered into a Securities Purchase Agreement entered into (“SPA”). *Id.* ¶ 7.

7. Pursuant to the SPA, the Maturity Date for the Notes was September 27, 2013. *Id.* ¶ 8.

8. Pursuant to Section 3 of the Notes, interest at the rate of nine percent (9%) per annum, commenced as of March 31, 2011 until the principal amount of the Notes are repaid in full. *Id.* ¶ 9.

9. Yayi ceased making interest payments on the Notes after September 30, 2012. *Id.* ¶ 11.

10. Pursuant to Section 4.2 of the SPA, Yayi agreed to file all reports required under the Exchange Act. *Id.* ¶ 13.

11. Subsequent to the execution of the SPA, Yayi ceased filing all required reports with the SEC. *Id.* ¶ 14.

12. In the absence of SEC filings, the Investors have been unable to recoup the monies due and owing on the Notes. *Id.* ¶ 15.

13. A loss of business and damage to one’s reputation may result from injured customers as a result of a breach of contract.

14. Euro Pacific has built goodwill upon, among other things, its customer base, client relations, reputation for solid investment strategy along with the reputation of Peter Schiff within the media and finance industry. *Id.* ¶ 19.

15. Intangible assets such as brand name, intellectual capital, unique market position and established networks comprise exceptionally important assets to Euro Pacific. *Id.* ¶ 22.

16. Mr. Schiff is Euro Pacific's CEO and Chief Global Strategist, as well as its public figurehead. *Id.* ¶ 20.

17. Mr. Schiff is recognized for his investment strategy and philosophy concerning international investments. *Id.* ¶ 21.

18. Plaintiffs have also incurred substantial attorneys' fees and costs directly caused by Yayi's breach. See Affirmation of Christopher Ayers dated July 8, 2016 ¶ 4.

19. The billing rates for the attorneys, law clerks, and paralegals working on the instant litigation ranged from \$150 per hour for a paralegal to \$715 per hour for a partner. *Id.* ¶ 9.

20. Should the statements herein be found constitute conclusions of law, the court so concludes.

CONCLUSIONS OF LAW

21. To plead a viable breach of contract claim, a "complaint need only allege (1) the existence of an agreement, (2) adequate performance of the contract by the plaintiff, (3) breach of contract by the defendant, and (4) damages." *Eternity Global Master Fund Ltd. v. Morgan Guar. Trust Co.*, 375 F.3d 168, 177 (2d Cir. 2004).

22. The Notes and the SPA are valid contracts between the Investors and Yayi.

23. The Investors performed their material obligations under the Notes and the SPA by making the investment and paying the funds to Yayi.

24. Yayi breached its material obligations under the Notes by failing to make interest payments and by failing to pay the principal owed at the Maturity Date.

25. Yayi is liable and required to pay Plaintiff the monies due and owing under the Notes with interest at a rate of 9% per annum thereon.

26. Yayi breached a material obligation under the SPA by failing to make the required filings with the SEC.

27. Because Yayi ceased filing with the SEC they have “gone dark.”

28. Yayi’s “going dark” and failure to tender payments due and owing has caused Euro Pacific to suffer business losses and damage to its reputation.

29. “Damages for breach of contract are determined by calculating the amount necessary to put the plaintiff in the same economic position he would have been in had the defendant fulfilled his contract.” *Gulf Coast Bank & Tr. Co. v. ASES, LLC*, No. 11-CV-5023 (RMB) (RLE), 2014 U.S. Dist. LEXIS 168327, at *10 (S.D.N.Y. Aug. 29, 2014) (internal citations omitted) (based on the submissions by plaintiff the Court recommended damages on the loan for breach of contract as well as interest).

30. In its capacity as Placement Agent, Plaintiff Euro Pacific is an intended third party beneficiary to the Notes and SPA.

31. Yayi was aware of the benefits that Euro Pacific would receive as an intended third party beneficiary to the SPA and Placement Agent.

32. The goodwill and reputation of broker-dealers and investment professionals are intrinsically valuable. *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 760-761 (1985) (discussing damages suffered by businesses due to reputational harm).

33. New York courts have awarded damages for reputational harm. *See Peter Schiff v. China Nutrifruit Group Ltd.*, Judgment of January 21, 2015 (awarding \$1 million in reputational damages to a Euro Pacific as a third party beneficiary broker deal for the breach of a securities purchase agreement).

34. As a result of Yayi's breach of the SPA, Euro Pacific suffered damage to its reputation and other intangible assets within the investment industry.

35. Pursuant to Section 12 of the Notes and Section 6.9 of the SPA, Yayi is liable for all reasonable costs and expenses incurred in connection with the enforcement and collection of the Notes. *See Chema Aff.* ¶¶ 10, 15.

36. The rates charged by counsel for Euro Pacific and the Investors are reasonable in light of hourly rates previously approved by this Court. *See, e.g., Gulf Coast Bank & Tr. Co. v. ASESD, LLC*, No. 11-CV-5023 (RMB) (RLE), 2014 U.S. Dist. LEXIS 168327, at *16-17 (S.D.N.Y. Aug. 29, 2014) (finding rates of \$425 for a partner to \$250 per hour for associate were reasonable); *Cathay Bank v. Young Ho Seo*, No. 06 Civ. 15445 (LTS) (RLE), 2010 U.S. Dist. LEXIS 2577 (S.D.N.Y. Jan. 13, 2010) (finding that rates of \$385 per hour for bankruptcy partner and \$245 per hour for associate was reasonable); *Sheehan v. Metro. Life Ins. Co.*, 450 F. Supp. 2d 321, 328 (S.D.N.Y. 2006) (finding that a rate of \$425 per hour for senior partner and \$300 for associates, in a breach of contract case, was reasonable).

37. In connection with the enforcement of the Notes and SPA Plaintiffs have paid reasonable attorneys' fees and costs.

38. Should the statements herein constitute findings of fact, the Court so finds.

[PROPOSED] ORDER

39. Based on the findings of facts, conclusions of law, and inquest memorandum with supporting affidavits and exhibits submitted herein, it is hereby ORDERED that: (1) Yayi is liable to the Investors in the principal amount of **\$8,920,000** for the unpaid Notes, plus interest in the amount of **\$4,337,319.45** as of February 19, 2016; (2) Yayi is further liable to Euro Pacific in the amount of **\$1,000,000** and **\$53,014.88** for reputational damage and business losses respectively, plus prejudgment interest thereon in the amount of **\$103,859.00** calculated at the statutory rate of nine percent (9%) from the commencement of this action on January 16, 2015 through February 19, 2016; (3) Yayi is further liable for **\$65,937.02** in attorney's fees and costs pursuant to the Notes and SPA.

Dated: July 8, 2016
New York, New York

Respectfully submitted,

ANDERSON KILL P.C.

/s/ David Graff
David Graff, Esq.
Christopher Ayers, Esq.
Rachael Kierych, Esq.
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